

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

May 26, 2004

DIVISION ONE

B162295 Douglas McCarthy, et al. (Not for Publication)
 v.
 AstenJohnson, Inc.

The judgment is affirmed. McCarthy is awarded his costs of appeal.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
 Mallano, J.

B164066 Prince, et al. (Certified for Publication)
 v.
 CLS Transportation, Inc., et al.

The order sustaining the demurrer to the class action allegations without leave to amend is reversed, and the cause is remanded to the trial court with directions to enter a new order overruling the demurrer in its entirety and directing CLS to answer. Prince is awarded his costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Mallano, J.

DIVISION ONE (Continued)

B164441 Mitchell (Certified for Publication)

v.

The Union Central Life Insurance Company, et al.

The judgment is reversed, and the cause is remanded to the trial court with directions (1) to enter a new order denying Union Central's motion for summary judgment, and (2) to set the case on track for trial. Mitchell is awarded her costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

DIVISION TWO

B164414 Abel, et al. (Not for Publication)

v.

Bolton, et al.

The judgment is affirmed. Respondents are awarded their costs on appeal.

Doi Todd, J.

We concur: Boren, P.J.
Nott, J.

B167674 People (Not for Publication)

v.

Smith

The judgment is reversed as to count 1, misdemeanor assault. The domestic violence fine of \$200 pursuant to Penal Code section 1203.097 is stricken and the superior court is directed to correct the minute order of sentencing proceedings to omit reference to the domestic violence fine. In all other respects, the judgment is affirmed.

Doi Todd, J.

We concur: Nott, Acting P.J.
Ashmann-Gerst, J.

DIVISION TWO (Continued)

B168497 People (Not for Publication)
v.
Mendoza

The judgment is modified (1) pursuant to section 654 to stay the aggregate terms imposed for count 9 of four years four months and count 19 of four years, and (2) to impose for count 3, a term of two years four months, consisting of a term of one year for the attempted forcible sodomy (one-third the middle term of three years) enhanced by a term of one year four months (one-third the middle term of four years) for the section 12022.3 firearm use enhancement; and (3) to impose for count 11, a term of two years four months for the battery by restraint, consisting of a term of one year (one-third a middle term of three years) enhanced by a term of one year four months (one-third of a middle term of four years) for the use of a firearm (§ 12022.5). As modified, the aggregate determinate term for counts 1, 3, 11, 12, 14, 16, 20, and 22 is 39 years four months. (The indeterminate terms are not affected by the modification of the judgment.) The superior court is ordered to cause its clerk to correct the following errors in the abstract of judgment: (1) to change the location of the “x”s in No. 6 from box “c” and “d” to box “b,” so as to designate that the terms for counts 12, 13, 15 and 17 are life terms with minimum terms of parole eligibility of 25 years pursuant to the One Strike law; (2) to state the respective four-year four-month and four-year terms for counts 9 and 19 are stayed pursuant to section 654; (3) to indicate that the term imposed for count 3, attempted forcible sodomy, is two years four months, consisting of a one-year term for the offense enhanced by a one-year four-month term for the use of the firearm (§ 12022.3); and (4) to state that the term imposed for count 11, sexual battery by restraint, is two years four months, consisting of a one-year term for the offense enhanced by a one-year four-month term for the use of the firearm (§ 12022.5). After preparing the amended abstract of judgment, the court shall send it to the California Department of Corrections.

Doi Todd, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

May 26, 2004 (Continued)

DIVISION TWO (Continued)

B162639 People (Not for Publication)
v.
Garcia

The sentence in count 2 is ordered modified to reflect that the sentence is stayed rather than imposed concurrently. The clerk of the superior court is directed to correct the abstract of judgment and forward a corrected copy to the Department of Corrections. As modified, the judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

DIVISION THREE

B165004 Richard Rosner (Not for Publication)
v.
Valleycrest Productions, LTD., et al.

The judgment is affirmed. Respondent(s) to recover costs.

Kitching, J.

We concur: Klein, P.J.
Aldrich, J.

B166329 People (Not for Publication)
v.
Richard Stephan Moore

The judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment which reflects the correct award of presentence conduct credits.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

DIVISION THREE (Continued)

B162809 Daar & Newman, et al.
 v.
 Zein E. Obagi, et al.

Filed order vacating submission order of February 11, 2004. due to the press of other court business and the complexity of the issues, additional time is needed to complete and file the opinion in this matter.. Cause resubmitted.

DIVISION FOUR

B172426 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Judi P.

The juvenile court order terminating parental rights and providing that adoption is the permanent placement plan is affirmed.

Hastings, J.

We concur: Epstein, Acting P.J.
 Curry, J.

B173569 Crystal J. (Not for Publication)
 v.
 Superior Court, Los Angeles County
 (DCFS, r.p.i.)

The petition is dismissed.

Hastings, J.

We concur: Epstein, Acting P.J.
 Curry, J.

DIVISION FIVE

B166925 Cecilia Lin (Not for Publication)

v.

Department of Health Services

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

We concur: Grignon, Acting P.J.
Mosk, J.

B167204 People (Not for Publication)

v.

Kendall Broughton

The judgment is affirmed.

Armstrong, J.

We concur: Grignon, Acting P.J.
Mosk, J.

DIVISION SIX

B167312 Juanita Lopez (Not for Publication)

v.

Louis Ortiz, Jr., etc.

We affirm the trial court's judgment sustaining the demurrer without leave to amend and granting judgment on the pleadings. The appeal from the probate court's order of final distribution is dismissed. Costs on appeal are awarded to respondent.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

DIVISION SIX (Continued)

B168111 Charles Miller (Not for Publication)
v.
Sheriff Bob Brooks, et al.

The judgment is affirmed. Because no opposing party appeared, no costs are awarded.

Gilbert, P.J.

We concur: Yegan, J.
Perren, J.

B173668 Brandi S. (Not for Publication)
v.
Ventura County Superior Court,
(Ventura County Human Services Agency, r.p.i.)

The petition for extraordinary writ is denied.

Gilbert, P.J.

We concur: Yegan, J.
Perren, J.

B173316 RLI Insurance Co. (Not for Publication)
v.
Ventura County Superior Court
(Insurance Co. of the West, r.p.i.)

The petition for writ of mandate is granted and the case is remanded to the trial court with instructions to vacate its prior order and enter summary judgment in favor of RLI. Costs are awarded to petitioner.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

May 26, 2004 (Continued)

DIVISION SIX (Continued)

[illegible]

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

B165210 People (Not for Publication)
v.
Rodriguez

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B150375 People (Not for Publication)
v.
Reiner

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Yegan, J.

May 26, 2004 (Continued)

DIVISION SIX (Continued)

[illegible]

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
 Yegan, J.

B168135 People (Not for Publication)
v.
Urrea

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

B171734 Nicholas (Not for Publication)
v.
Santa Ynez Valley Union High School Dist.

The judgment is affirmed. Costs are awarded to the District.

Gilbert, P.J.

We concur: Yegan, J.
Perren, J.

DIVISION SIX (Continued)

B166699 Larrecq
 v.
 Truck Insurance Exchange

Filed order denying petition for rehearing.

DIVISION EIGHT

Court convened at 9:00 a.m.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Connie Hon, Deputy Clerk.

Each of the following:

B166338 People v. Quintero
B166588 People v. Quintana
B167849 People v. Valdez
B168495 People v. Wentling
B168755 People v. Lopez
B168810 People v. Liddell
B169020 DCFS v. Jorge L., Cecila L. & Joseph L.

Argument waived, cause submitted.

B166449 Roshan
 v.
 Engstrom, Lipscomb & Lack et al.

Matter continued to June 29, 2004.

B167750 People
 v.
 Sideris

Matter continued to June 30, 2004.

DIVISION EIGHT (Continued)

B168276 People v. Thorbourn

Matter continued to July 28, 2004.

B169743 People
 v.
 Dickerson

Merits:

Argued by David C. Read for appellant and by Juliet Swoboda, Deputy Attorney General for respondent. Cause submitted.

B167164 Heath
 v.
 First Nationscredit Financial Services Corporation

Merits:

Argued by Marc T. Little for appellant and by William R. Larr for respondent. Cause submitted.

B160212 People
 v.
 Ortega & Rodriguez

Merits:

Argued by John Yang, Deputy Attorney General for respondent and by Thomas T. Ono for appellant (Ortega). Deborah L. Hawkins previously waived oral argument for appellant (Rodriguez). Cause submitted.

B164650 People
 v.
 Arjon

Merits:

Argued by Catherine Okawa Kohm, Deputy Attorney General for respondent and by Michael Schensul for appellant. Cause submitted.

DIVISION EIGHT (Continued)

B165538 McLaughlin, et al.
v.
Walnut Properties, Inc., et al.

Appearances:
Max Craig Cassing for appellants and no appearance for respondents.
Argument waived, cause submitted.

Court adjourned at 10:20 a.m.

B170482 People (Not for Publication)
v.
Kendall

The judgment is affirmed.

Flier, J.

We concur: Cooper, P.J.
Boland, J.

B164219 In re Tedroy A. Bovell on Habeas Corpus (Not for Publication)

We treat the appeal as a petition for writ of habeas corpus and deny the petition.

Flier, J.

We concur: Cooper, P.J.
Boland, J.

B164470 In4network, Inc.
v.
The University of Southern California

Filed order denying petition for rehearing.